HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.24828 of 1999

Dated 25th day of April, 2007

Between:

M. Allah Baksh
and another .. Petitioners

And

Serilingampalli Muncipality,
Serilingampally Mandal,
R.R.District rep. by its Commissioner .. Respondent

O R D E R:

This writ petition is instituted seeking a mandamus to declare the action of the respondent-Municipality in not considering the petitioners' application dated 13.11.1997 for regularization of construction of building bearing No.1-98/90/C, situated in Madhapur village and seeking to demolish the 2nd, 3rd, and 4th floors of the building, as arbitrary and illegal.

The petitioners assert that the 1st petitioner and his wife, who is the 2nd petitioner, own an extent of 240 square yards of land in S.No.1, situated in Madhapur village, Serilingampalli Mandal, R.R. District, and after obtaining permission from Gram Panchayat they constructed building bearing No.1-98/90/C in it. On the building, they constructed 4 more floors in the year 1994-95. Thereafter, in view of G.O.Ms.No.419, dated 30.7.1998, the petitioners paid a sum of Rs.10,320/- to the Government for regularization of the constructions. But, surprisingly, the 1st petitioner received a notice from the respondent indicating as to why he was constructing the 2nd floor without obtaining permission and the same cannot be demolished. On 13.11.1998, the petitioners made a representation that they constructed four floors above the existing ground floor after paying requisite fee for regularization. Now, the petitioners' grievance is that the respondent has not considered the application, but taking steps to demolish the constructions made on their building.

In the counter affidavit it is stated that the petitioners filed an application on 13.11.1997 seeking regularization of their unauthorized constructions and they also paid an amount of Rs.4,130/- and Rs.6,190/- separately for the existing ground floor and first floor, but they failed to produce the ownership documents and plans. Hence, the respondent-Municipality rejected their application on 31.3.1998.

Heard the learned counsel for both the parties.

The learned counsel for the petitioners has sought to produce the ownership documents and plans before this Court. This Court is of the opinion that instead of looking into those documents it would be appropriate to direct the petitioners to produce the documents before the competent authority i.e. the Municipal Commissioner, Serilingampally Municipality, who on considering them, may pass appropriate orders in accordance with law. Having regard to the fact that this Court, on 28.4.2000, directed the parties to maintain *status quo*, the same shall remain in force pending consideration of the documents.

With the above direction, this writ petition is disposed of. No costs.

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25.04.2007

bcj